

Education versus the IR35: top tips

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What is IR35?

IR35 applies when a self-employed individual contracts with a client via a limited company. The client pays the limited company and in turn the limited company pays the individual. One of the benefits of this is that it typically attracts less tax. HMRC is therefore keen to make sure people using IR35 are genuinely self-employed and are not “disguised employees” using the system to reduce their tax burden.

You may have seen discussion lately about IR35 and, in particular, how it is changing for companies in the private sector. In particular, you may have seen stories how some very large companies are doing away with IR35 contractors completely, the suspicion being it is as a direct result of these [changes here](#).

We're in the Education sector, so we don't need to worry about IR35 changing for private sector do we?

Well, no, you don't but not for the reason you might think...

That's because the changes that are hitting the private sector in 2020 were already brought into the public sector in April 2017. That means that you are required:-

- To determine whether or not that independent contractor is genuinely self-employed;
- To meet liability for any unpaid taxes in the event that HMRC deem that your IR35 Contractor is in fact a disguised employee; and
- If you believe the individual is not genuinely self-employed, bringing that IR35 Contractor onto your payroll.

What are the “top tips” for dealing with IR35 in the education sector?

1. Conduct a review so you know how many IR35 Contractors you have
2. Deliver training to relevant people in your organisation who deal with IR35 contractors
3. Prepare a process for auditing those IR35 Contractors to determine their employment status
4. Prepare relevant documents to assist with IR35 including:
 - a. Contracts;
 - b. Communication with IR35 Contractors;
 - c. Status determination letters – the document you will use to advise individuals of their status.
5. Develop a system to continually review and access your use of IR35 Contractors.

How can Browne Jacobson help?

In short, we can help you with all of the above.

IR35: Verify is a suite of services designed to assist you in complying with your legal requirements in respect of IR35. IR35: Verify works by conducting a thorough review of your existing arrangements to identify areas of concern where there may be a risk an IR35 Contractor is a disguised employee.

In particular IR35: Verify can help by:

- Delivering training to key stakeholders in your business regarding IR35 and the changes that are coming;
- Reviewing the day to day reality of the arrangements in determine whether the IR35 Contractor is behaving like an employee;
- Providing a suite of new contractual documentation for you to use as you wish;
- Preparing of a detailed, yet simple report which:-
 - Categorising IR35 Contractors based on risk;
 - Suggesting revisions to contractual documentation;
 - Recommending alterations in your relationships with IR35 Contractors; and
 - Suggesting revisions in the interaction between your business and IR35 Contractors to strengthen your arguments that no employment relationship exists.

To learn more about IR35: Verify, including pricing information, please contact [Ian Deakin](#).

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